

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Implementation of Section 22 of the Cable)
Television Consumer Protection)
and Competition Act of 1992)
)
Equal Employment Opportunities)

MM Docket No. 92-261

COMMENTS OF GTE

GTE Service Corporation ("GTE"), on behalf of its domestic telephone operating companies and GTE Laboratories Incorporated, offers its comments to the Commission's Notice of Proposed Rule Making ("NPRM") in the above referenced proceedings, FCC 92-539, released January 5, 1993. The NPRM seeks comment on the adoption and implementation of Section 22 of the Cable Television Consumer Protection and Competition Act of 1992, P.L. No. 102-385, 102 Stat. 1460 ("Cable Act of 1992").

When Congress enacted the Cable Act of 1992, it expressed concern that "females and minorities are not employed in significant numbers in positions of management authority in the cable and broadcast television industries."¹ In response to this concern, Congress amended the Communications Act to include new equal employment opportunity requirements and extended their scope to cover all multichannel video programming distributors.

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Of significance in this and several other of these cable rulemakings is the definition of a multichannel video programming distributor (MVPD) and what entities that definition encompasses. MVPD is defined in the 1992 Cable Act as:

a person such as, but not limited to, a cable operator, a multichannel, multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.

1992 Cable Act § 2(c)(6), 47 U.S.C. § 522(12). While this definition expressly identifies certain MVPDs, this list is not exhaustive.

GTE believes that a video dialtone carrier (VDC) is not a MVPD. This would be consistent with the Commission's tentative conclusion at paragraph 42 of the Broadcast Signal Carriage Issues NPRM, MM Docket No. 92-259 (released November 19, 1992), that the statutory definition of MVPD be interpreted as differentiating between an entity performing a delivery function with respect to the video signal, and an entity that actually sells programming and interacts with the home viewer.

VDCs will not, in all likelihood, actually sell programming and interact with the home viewer. Instead, the VDC's primary role will be to provide the means of delivery for the programming of other entities who will in turn interact directly with the subscriber. Entities that merely provide channel capacity for the transmission of video programming ultimately sold by others should be excluded from the MVPD definition. While it is possible that a VDC may, at some point, become responsible for selecting and distributing programming directly to subscribers, until that actually occurs the Commission should clarify that a VDC is not a MVPD.

Although a VDC is not a MVPD, as a local exchange carrier, the VDC is still subject to its own set of equal employment opportunity standards. Thus, the

Commission will not be abandoning EEO for video dialtone carriage by finding that VDCs are not MVPDs.

As common carriers, LECs are already required to report various EEO statistics to the FCC on Form 395. Presumably, a common carrier VDC will be required to make this same filing. In addition, similar statistics must be reported to the Equal Employment Opportunity Commission on Form EEO-1.

There is no reason for the Commission to go out of its way to bring VDCs within the scope of the new cable EEO rules. Congress was primarily concerned with the underrepresentation of women and minorities in the cable industry. The entire discussion of EEO in the House Report and the Conference Report is in the context of the cable industry. No specific findings were made concerning other MVPDs. The extension of the EEO rules to all MVPDs thus appears to have been primarily an effort to apply EEO standards consistently and uniformly. If an entity is not an MVPD, there is no basis for applying the cable EEO rules to it.

CONCLUSION

For the reasons discussed above, GTE urges the Commission to clarify that Section 22 of the Act does not apply to video dialtone carriers providing only common carrier transport service.

Respectfully submitted,

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